

REMARKS

Claims 1-25 are pending in the present application. The Examiner's rejections are respectfully traversed in view of the remarks set forth below.

In the Office Action, claims 1-8, 10-16 and 18-24 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Number 6,353,776 to Rohrl et al. (hereinafter **Rohrl**). Applicants respectfully traverse the Examiner's rejections.

It is respectfully submitted that the Examiner erred in rejecting independent claim 1 and dependent claims therefrom. An anticipating reference, by definition, must disclose every limitation of the rejected claim in the same relationship to one another as set forth in the claim. Claim 1, among other things, calls for determining if an authorization signal authorizing a user terminal to communicate with a base station has been received from the base station at the user terminal within a specified period of time for the transmission of the authorization signal, and disabling a transmitter of the user terminal providing that the authorization signal has not been received within the specified period of time.

The Examiner relies upon the **Rohrl** reference, asserting that all the elements of claim 1 are taught by **Rohrl**. The Applicants respectfully disagree. **Rohrl** at least does not teach receiving the authorization signal from the base station and disabling a transmitter of the user terminal. In **Rohrl**, the authorized code information item is received from a portable code transponder, which is not the base station. See **Rohrl**, col. 11, lines 1-5. Instead, the portable code transponder is a card (i.e., a smart card or the like). Moreover, the portable code transponder is used as an identification transmitter that automatically transmits back a response code signal to indicate that the code information is authorized after determining that a request or interrogation code signal has not been requested by an unauthorized remote interrogation from

the base station to control functions in the motor vehicle that includes the base station. See *Rohrl*, col. 9, lines 22-26 and 40-45. The Examiner alleges enabling a function for the base station at the motor vehicle to be disabling a transmitter of the user terminal, which is distinct from the base station. Based on the above-indicated legal standard, it is respectfully submitted that the *Rohrl* reference fails to teach receiving the authorization signal from the base station and disabling a transmitter of the user terminal, as set forth in claim 1. Thus, claim 1 and claims dependent therefrom are in condition for allowance which is respectfully requested of the Examiner.

Rohrl describes a technique that relates to an access control and driving authorization device for a motor vehicle. To control at least one function of an object, *Rohrl* takes measures for preventing an unauthorized use or access to the object. In particular, *Rohrl* performs an authorization check by determining whether authorized code information is received from a portable code transponder 1, in a response signal at the base station 14. See *Rohrl*, col. 11, lines 1-5. According to the Examiner, the “portable code transponder 1” shown in Figure 1 of *Rohrl* corresponds to the “user terminal” in claim 1. See Office Action, p. 3. The “base station 14” shown in Figure 1 shown in Figure 2 of *Rohrl* corresponds to the “base station,” as set forth in claim 1.

In this way, according to the Examiner, the user terminal that receives the authorization signal from the base station is equivalent to the portable code transponder 1 of Rohrl that sends the authorized code information to the base station 14. Likewise, non-recognizing of a response code signal as permissible by the portable code transponder 1 if the response code signal is requested by an unauthorized remote interrogation of the remotely disposed transponder 1 to enable or not enable a function for the base station at the motor vehicle is asserted to teach

disabling a transmitter of the user terminal. That is, in rejecting claim 1, the Examiner argues that the portable code transponder 1 indicating that the code information is authorized after determining that a request or interrogation code signal has not been requested by an unauthorized base station 14 of Rohrl to control functions in the motor vehicle that includes the base station is receiving the authorization signal from the base station. The Applicants respectfully disagree.

Rohrl does not support the Examiner's argument. In particular, the distinction between determining whether the response code signal is requested by an unauthorized or authorized remote interrogation for indicating back that the code information in the response code signal is authorized and determining if an authorization signal has been received from the base station for authorizing a user terminal to communicate with that base station is completely ignored by the Examiner. Thus, according to the Examiner, because **Rohrl** teaches authenticating an interrogation request from the base station 14 at the portable code transponder 1 to indicate whether the code information is authorized before transmitting the response code signal from that portable code transponder 1 to the base station 14 to enable or not enable a function for that base station, **Rohrl** teaches determining if an authorization signal has been received from the base station for authorizing a user terminal to communicate.

Therefore, for reasons presented above, the “determining if an authorization signal has been received from the base station for authorizing a user terminal to communicate” recited in claim 1 cannot and is not taught or suggested by “determining whether the code information contained in the response code signal transmitted from the transponder is authorized in response to receiving an interrogation code signal from the base station,” as alleged by the Examiner. For this reason alone, the claim 1 features differ from teachings indicated by the Examiner.

Additionally, **Rohrl** at least does not teach disabling a transmitter of the user terminal if the authorization signal is not timely received at the user terminal, set forth in claim 1. While **Rohrl** describes controlling functions in the motor vehicle only if the propagation time of the checkbits lies within the reference propagation time and the code information is authorized, **Rohrl** describes transmitting code information that is authorized within the response code signal from the transponder. See **Rohrl**, col. 9, lines 23-26. At most, code information is authorized and transmitted within the response code signal to control functions in the motor vehicle. In other words, the base station 14 control functions in the motor vehicle. Instead, as set forth above, by controlling functions in the motor vehicle, **Rohrl** teaches away from disabling a transmitter of the user terminal. For this reason, it follows that **Rohrl** does not teach disabling a transmitter of the user terminal if the authorization signal is not timely received at the user terminal, as set forth in claim 1. Accordingly, the Examiner's application of **Rohrl** to claim 1 is flawed. Claim 1 is thus allowable. For at least the aforementioned reasons, dependent claims 2-7 are also allowable.

With respect to rejection of claims 8 and 18, Applicants respectfully submit that §102 rejection should be withdrawn since the Examiner fails to establish anticipation based on the teaching of **Rohrl** for at least the aforementioned reasons. Accordingly, claims 8 and 18 are allowable.

In the Office Action, claims 9 and 25 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over **Rohrl** in view of **Lambert** (U.S. Patent No. 5,642,380). Applicants respectfully disagree and submit that claims 9 and 25 cannot be rendered obvious in a *prima facie* manner in view of **Rohrl** and **Lambert**, considered either alone or in combination. To establish a *prima facie* case of obviousness, the prior art reference (or preferences when

combined) must teach or suggest all the claim limitations. Claim 9 sets forth, among other things, a MODEM having a software component with software running thereon and a hardware component that includes the signal detector, transmitter, and controller.

With regard to claim 9, the Examiner asserts that **Rohrl** teaches the determining and disabling features. The Examiner admits that **Rohrl** fails to disclose that the device comprises a modem having a software component with software running thereon and a hardware component that includes the signal detector, transmitter, controller and means for determining and the means for disabling. To remedy this fundamental deficiency in **Rohrl**, the Examiner relies on **Lambert**. The Examiner alleges that **Lambert** teaches a MODEM having a software component with software running thereon and a hardware component that includes the signal detector, transmitter, and controller.

Lambert describes a MODEM in which the duration of the symbols of the modulated carrier-signal are variable. See **Lambert**, col. 2, lines 54-55. Unlike a conventional MODEM, in the MODEM described by **Lambert**, a feedback circuit from the output TXD controls a variable divider 10 between a clock generator 12 and the input TXC, thus providing variable shift keying (VSK) of the transmitted data, as well as an output TXA controlling the transmitter, thus shifting the modulation function from the transmitter 6 to the SIO (Serial Input/Output) chip 2. See **Lambert**, col. 4, lines 15-21. However, **Lambert** is completely silent with regard to a MODEM having a software component with software running thereon, as set forth in claim 9.

The Examiner asserts that **Lambert** teaches the MODEM having a software component with software running thereon in col. 6, lines 8-26. This citation by the Examiner by no means supports the Examiner's contention that the MODEM described in **Lambert** corresponds to the MODEM of claim 9. In fact, **Lambert** indicates otherwise, since the described embodiments

clarify that the MODEM only includes a feedback circuit that is not common with conventional MODEMS. See **Lambert**, col. 4, lines 12-21. Furthermore, the cited references provide no suggestion or motivation to modify the prior art to arrive at Applicant's claimed invention. Accordingly, the §103 rejection of claim 9 is clearly improper. Applicants also respectfully request the allowance of claim 25 for at least the reasons set forth above.

Additionally, claim 17 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over **Rohrl** in view of **Newton's** Telecom Dictionary. Applicants' respectfully traverse the Examiner's rejections of claim 17 because **Newton's** Telecom Dictionary fails to describe or suggest all the claim 17 features as a whole.

The **Newton's** Telecom Dictionary is completely silent as to a device communicating with a base station of a communication system where an authorization signal authorizes the device to communicate with the base station. It is well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. Accordingly, the §103 rejection of claim 17 over **Rohrl** in view of **Newton's** Telecom Dictionary fails to establish that the prior art teaches or suggests the claimed invention in a *prima facie* obvious manner as a whole. For at least the aforementioned reasons, Applicants respectfully request withdrawal of the §103 rejection of claim 17 by the Examiner.

In view of the foregoing, Applicants respectfully submit that all pending claims are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4089 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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